



Fluency Duty Policy

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Governor responsibility	Kevin Evans
Adopted from:	Telford and Wrekin ~ Human Resources

1. Introduction

The Governing body recognises its legal duty as a 'State funded school' under Part 7 of the Immigration Act 2016 which requires all customer facing public sector workers to speak fluent English (or English or Welsh in Wales). We also recognise the duty does not require customer facing staff to speak only English to communicate with members of the public, but where appropriate to make use of any language skills they have to communicate with those who speak other languages.

This policy sets out how we intend to adhere to this duty in a fair, consistent and proactive way.

2. Scope of Policy

This policy applies to all existing employees and potential new employees. It also applies to agency workers and self-employed contractors.

3. Policy Commitments

As a Governing body we are committed to:

- ☒ Operating open and transparent recruitment processes to ensure job adverts, job descriptions and person specifications are clear about the fluency standards required for each post.

- ☑ Using fair and transparent methods to determine whether a person has command of spoken English for effective performance in the role.
- ☑ Applying processes to comply with our legal duty under Part 7 of the Immigration Act 2016 fairly, consistently and in line with the best practice guidance set out in the Code of Practice and employment legislation, including the Equality Act 2010.
- ☑ Ensuring managers are aware of the requirements of the duty, in order for them to determine the posts the duty applies to and the standards of fluency for each post.
- ☑ Supporting existing employees where appropriate to meet the required standard if they work in a customer facing role
- ☑ Rejecting any complaint which relates to the relevant employees' race, nationality, ethnic origin or disability and / or where it does not legitimately fall within the remit of the fluency duty.

This policy recognises that:

- ☑ Members of the public referred to within the duty include, but is not limited to our pupils, parents, visitors and Ofsted Inspectors.
- ☑ Under the fluency duty, those employees who, as a regular and intrinsic part of their role, are required to speak to members of the public in English (or Welsh in Wales) are considered as working in customer facing roles.
- ☑ The nature of the role must be assessed to determine the appropriate level of fluency required to enable effective performance in that role.
- ☑ For employees in a customer facing role whose first language is signed language, the fluency duty will be met by the provision of a sign language interpreter who speaks English to the necessary standard of fluency for that role.

4. Customer Facing Roles

Employees who, as a **regular** and **intrinsic** part of their role, are required to speak to members of the public in English are considered as working in a customer facing role. The degree of interaction with the public needs to be regular and planned to be an intrinsic part of the role and this will include both face-to-face and telephone conversations.

The Governing body are required to determine which roles are “customer facing” under this definition and will consider existing and new posts. When making this

determination, the Governing Body will consider the following aspects of the work involved:

- Whether there is a need for interaction with the public;
- The frequency and form of the interaction;
- The level of service quality and responsiveness expected by the public;
- The proportion of the role which would require spoken interaction with the public;
- The nature of the role; and
- Whether English language is the primary language required for the role.

The following posts are considered to be examples, (this is not an exhaustive list):

- All teaching posts including the Head Teacher, Deputy and Assistant Head Teacher
- Teaching Assistants, Special Support Assistants, Cover Supervisors and HLTA posts
- Family Support Workers
- Receptionist and front of School Admin posts
- Kitchen Assistants and Lunch Time Supervisors

Posts that are required to speak a foreign language as a predominant part of the role will be exempt from the duty.

Where a post has been determined as customer facing, it will be made clear in the job description and person specification.

5. Fluency Standard

Under this policy, “fluency” refers to a person’s language proficiency, their ability to speak with confidence and accuracy and to use accurate sentence structures and vocabulary.

The standard of English fluency will be determined on a role by role basis. The Governing body will assess the nature of the customer facing role and the appropriate level of fluency required to enable effective performance on that specific role. This will include the ability of the individual to be able to:

- choose the right kind of vocabulary for the situation without a great deal of hesitation;

- listen to their customer and understand their needs;
- tailor their approach to each conversation appropriate to the customer; and
- respond clearly with fine shades of meaning, even in complex situations.

In all cases, the Governing body will ensure the level of fluency required is proportionate and legitimate to the demands of the role and will consider:

- The frequency, typical duration, topic and significance of spoken interaction
- Whether the communication is likely to include technical profession specific or specialist vocabulary
- Whether the communication is repeated / supplemented by written material provided to customers

The Governing body understands that there are some roles that are already subject to a language standard. For example, Teachers have a requirement under teacher standards

The Governing Body has adopted the Common European Framework of References for Languages (CEFR appendix A) which is referred to in the Code of Practice to determine the level of fluency required for each customer facing post.

The standard of fluency required for the post will be made clear in the job description and person specification.

6. Assessment

Job Applicants

Where a post has been identified as customer facing, the standard of fluency for that post will be made clear in the job description and/or person specification.

During the recruitment process, candidates will be assessed against the clear criteria set out in the job description and/or person specification for the post.

All shortlisted applicants will be made aware that they will be assessed as to whether they meet the required level of fluency during their interview.

The Governing body will ensure that all staff involved in the recruitment process, including those involved in the interview panel, understand the standards of fluency required for the role they are recruiting to.

Note: Teachers have a requirement under teacher standards.

Existing employees

Where a post has been determined as customer facing, the standard of fluency identified for the post will apply to existing employees currently employed in the role.

The School / Head Teacher / Line manager may become aware that an employee does not meet the required standard through either a complaint received from a member of the public or as a result of supervisory / performance management discussions.

Where it has been identified that an existing employee does not meet the required standard of fluency for the post, the line manager will:

1. Raise it informally with the employee: inform the employee of the required standard and explain the shortfall and confirm that the employee understands.
2. Discuss and agree training or re-training with the employee to support him/her to meet the fluency standard requirements of the role.

The amount and type of support given to the employee will vary according to the individual circumstances and may include:

- ❖ Online resources: self study and tutoring, courses and vocabulary training, interactive language programmes, eLearning courses for example.
- ❖ One-to-one support: conversations with native speakers who understand the context of the role.
- ❖ Coaching / Mentoring

Employees will be given the opportunity to meet the necessary standards within a **reasonable** timeframe which the employee will be informed of.

Where, after all reasonable support has been offered, the required standard of improvement has not been met, the line manager will refer to the Schools Capability process.

Part of that process will involve considering reasonable adjustments and all available options, which may include:

- ❖ Additional training / support
- ❖ Redesigning the role to reduce the frequency of communications with the public
- ❖ Supplementing communications with written material to customers
- ❖ Redeployment to an alternative, non customer facing role within the school.

After all available options and support have been exhausted (including offering training and considering redeployment), it may be necessary to consider dismissing the employee on the grounds of capability.

The School / Head Teacher / Line manager should always seek advice from Human Resources before instigating the formal capability procedure for reasons associated with the fluency duty.

7. Agency Workers and Self Employed Contractors

Where there is a requirement for a short term worker via an agency such as Supply Teachers, the school will inform the agency of the required standard of fluency for the post.

Agency workers are not employed by the School. Therefore if the agency worker is unable to meet the necessary standard of fluency, the school will consider terminating the agreement with the agency for the engagement of the individual in accordance with the terms of the contract with the employment agency.

8. Complaints

Members of the public may submit a complaint in relation to a customer facing public sector employee having an insufficient standard of spoken English for the performance of their role. The School has a duty to investigate and respond to a legitimate complaint of this nature.

For the complaint to be legitimate under the fluency duty, it must be concerned with the **standard** of spoken English. Complaints about an employee's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint under the fluency duty.

All complaints from members of the public should be dealt with through the School's complaints procedure.